

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-509155 AND ALL  
OTHER SEAMAN DOCUMENTS

Issued to: Eugene A. Aulicino

DECISION BY THE COMMANDANT  
UNITED STATES COAST GUARD

1505

Eugene A. Aulicino

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.30-1.

By order dated 13 January 1965, an Examiner of the United States Coast Guard at San Pedro, California revoked Appellant's seaman documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved alleges that, on 9 September 1963, Appellant was convicted by the United States District Court for the Southern District of California, Central Division, a court of record, for violation of 21 U.S. Code 176(a) (sale and concealment of marijuana), a narcotic drug law of the United States.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence a certified copy of a Judgment and Commitment which shows that Appellant was convicted as alleged after a trial during which he was represented by counsel; and that he was sentenced to serve five years imprisonment concurrently on each of two counts.

No evidence was submitted in defense.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and specification had been proved. The Examiner then served a written order on Appellant revoking all documents issued to Appellant. The entire decision was served on 27 January 1965.

On appeal, Appellant contends that arrangements were not made for the appearance of a witness whose testimony would prove that Appellant is innocent of the crime for which he was convicted.

OPINION

Appellant was fully informed of his right to subpoena witnesses. Counsel stated that there

was no reason to produce witnesses and Appellant agreed (R.12). In any event, testimony that Appellant is innocent would serve no purpose since the revocation of Appellant's documents is based solely on the fact that he was convicted for violation of a narcotic drug law. Therefore, Appellant's recourse is to the court which convicted him. The order of revocation will be rescinded if Appellant "submits a specific court order to the effect that his conviction has been unconditionally set aside for all purposes." (Title 46 CFR 137.20-190 (b)).

#### ORDER

The order of the Examiner dated at San Pedro, California, on 13 January 1965, is AFFIRMED.

E.J. Roland  
Admiral, U.S. Coast Guard  
Commandant

Signed at Washington, D.C., this 3rd day of June 1965.

#### Index

Narcotics Statute

conviction conclusive

recourse is to convicting court

rescission of revocation, basis for

unconditional dismissal required